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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,538	01/15/2004	Ping-Shen Chen	TOP 351	4578

23995 7590 09/12/2006

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT PAPER NUMBER

3728

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,538

Applicant(s)

CHEN, PING-SHEN

Examiner

Shian T. Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Election/Restrictions

1. Claims 12-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 7/25/06.

Claim Rejections - 35 USC § 112

2. Claims 1-11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1 and 10, the term “protective film” lacks proper antecedent basis. Also, the protective film does not appear to surround the LCD cells because it is only on top or bottom of the LCD cells. Also in claim 1, the preamble does not claim the combination of the package with the LCD cells, yet the claim appears to require the LCD cells in the case. For the purpose of this Office Action, the combination has not been claimed. In claim 4, applicant did not define the corresponding structure on the base for engaging the hooks and loop fastening tapes of the cover.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-2,7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US 4,892,193). Thomas discloses a transport package comprising a case having a body and a cover connected at a folded hinge for storing substantially planar objects. The body and the cover have a plurality of inner surfaces. A plurality of cushioning members 30,40 made out of polyethylene foam mounted on the inner surfaces of the body and the cover. A plurality of protective films 100,110,130 made out of polyethylene foam surrounds the cells in the case.

There is no structure or any other recitation in the body of the claim that would give life, scope or meaning to the preamble recitation of “an antistatic transport package”.

A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976); *Kropa v. Robie*, 88 USPQ 478, 481 (CCPA 1951).

Because the body of the claim does not require the package to be antistatic, it has been assumed that the package is not antistatic as is merely an intended use.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the case out of a folded antistatic polypropylene corrugated board, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

7. Claims 1,6-8,10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al (US 6,286,684) in view of Official Notice. Brooks et al. disclose an antistatic transport package with a body and a cover. A plurality of cushioning members is situated on the inner surfaces of the body and the cover. Protective film 20 protects the contents. Although it is not clear whether the cushion are mounted onto the case, it is well known in the art to mount the cushioning member to the inner surfaces of the container to secure the cushions. It would have been obvious to mount the cushions to ensure securement.

Brooks et al. also does not disclose storing a plurality of the packages in a frame. But it is notoriously known to provide a box or frame with compartments to store packages for transporting. Hence, the frame is not a patentable feature.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the case out of a folded antistatic polypropylene corrugated board, the cushioning member and protective film out of polyethylene foam and frame out of conductive polypropylene corrugated boards, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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Allowable Subject Matter

8. Claims 3-5 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H

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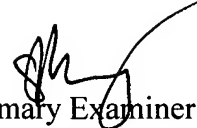
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from 7:00am to 4:00pm EST. The examiner's supervisor Mickey Yu can be reached at (571)

272-4562 for urgent matters.

STL
August 31, 2006



Primary Examiner
Shian Luong
Art Unit 3728